



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 10/23/01  
AGENDA ITEM 7  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Redevelopment Agency Board Members  
**FROM:** Director of Community and Economic Development  
**SUBJECT:** Adoption of Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire property Located at 22701 Watkins Street (APN No. 428-0071-026)

**RECOMMENDATION:**

It is recommended that the Redevelopment Agency adopt the attached Resolution of Necessity to acquire property located at 22701 Watkins Street.

**BACKGROUND:**

22701 Watkins Street is a developed parcel owned by the Heringer Trust as to an undivided ½ interest and by the Isabel C. Nevarez Trust as to an undivided ½ interest. Ms. Barbara Swarr represents the Nevarez Trust as Trustee in the matter of this property. The property is currently used as an auto service facility. The property is located in the Downtown Hayward Redevelopment Area at the corner of C and Watkins Street on the block known as Site 4. As part of the goal of revitalizing downtown through the introduction of transit-oriented development, this block has been identified as a future housing site and the Agency has been acquiring properties on Site 4 on a parcel-by-parcel basis. Of the 18 parcels on this block, 15 have been acquired or are under purchase contract pending close of escrow. To date, all acquisitions have been accomplished through the usual purchase process.

The block consists of a mix of vacant lots, commercial properties and older single-family homes, several of which were vacant and/or in a state of significant disrepair at the time of purchase. Continuance of the existing automotive use would not be compatible with a future housing development and would significantly detract from the overall effort to redevelop the block in an attractive and consistent manner.

The Redevelopment Agency issued a Request for Proposals for development of Site 4, in accordance with the Agency's Rules for Business Tenant Preference and Owner Participation. The owners did not submit a proposal for development of the site. Subsequently, the Agency obtained an appraisal of the subject property and has offered to acquire the property for the adjusted fair market value, in the amount of \$323,000. The Agency's acquisition agent and staff have met with Mrs. Heringer and her family, including Ms. Swarr, several times regarding the sale of the property. Ms. Swarr presented a verbal counter-offer at a recent

meeting regarding the property, however the offering price is not in a range that staff believes is warranted, and there was no data given to support the offer.

The current tenants on the property include T&M Transmission and Dennis's Auto Service. Both tenants are currently renting on a month-to-month basis. The Agency has offered to pay a total of \$16,280 for immovable furnishings and fixtures, and it appears that the tenants will claim this offer. In addition, T&M Transmission has requested payment of "in-lieu" relocation benefits at this time in order to close their doors and transfer their customer obligations, as a result of family hardships. The owners support this request, and staff is proceeding along these lines. Ms. Swarr has verbally agreed to accept the Agency's offer to "rent to hold vacant" the space vacated by T&M Transmission under the same terms. It is anticipated that Dennis's Auto Service will continue in business and paying rent at this location until such time as the Agency gains possession of the property and the tenant is able to find a new location.

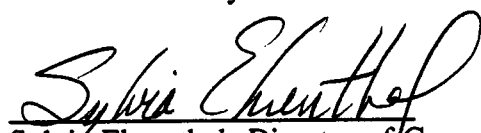
Staff recommends that the Agency Board hold a public hearing to consider testimony on the following points: 1) whether there is a public interest and need to acquire the property, 2) whether the proposed project is planned or located in a manner that will be most compatible with the public's interest and results in the least private injury, 3) whether the property is necessary for the proposed project, and 4) whether an offer to acquire the property on a voluntary basis has been made to the owner before the public hearing. Staff further recommends that upon the conclusion of the public hearing the Agency Board adopt the attached Resolution of Necessity to authorize commencement of an eminent domain proceeding to acquire the subject property. Although this action is being recommended at this time it may be possible to settle this matter outside of court, and staff will continue to make themselves available to carry on further dialogue with the owners.

A notice of the hearing was sent by first class mail and federal express to Ms. Swarr, Trustee of the Nevarez Trust, and to Mrs. Heringer, and Ms. Swarr has notified staff of her intention to speak at the hearing. In addition, notices of the hearing were sent to the tenants.

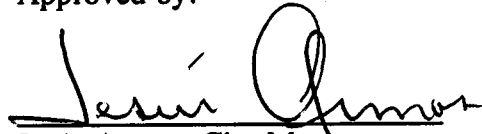
Prepared by:

  
Maret Bartlett, Redevelopment Director

Recommended by:

  
Sylvia Ehrenthal, Director of Community  
and Economic Development

Approved by:

A handwritten signature in black ink, appearing to read 'Jesús Armas', written over a horizontal line.

Jesús Armas, City Manager

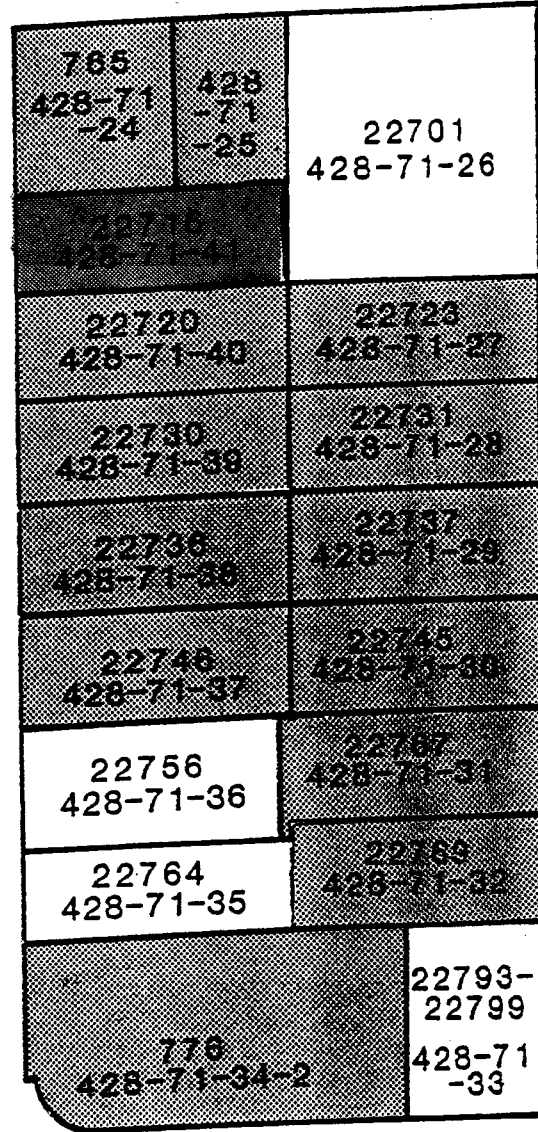
Attachments: Exhibit A – Site Map  
Resolution

# EXHIBIT A - SITE MAP

"C" STREET

ATHERTON ST.



WATKINS ST.



← Property to be Acquired

"D" STREET

SITE 4  
(TOTAL PARCELS - 18)

-  To be Acquired by Agency
-  Owned by Agency

# DRAFT

## REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

### RESOLUTION NO. RA-

Introduced by Agency Member

#### RESOLUTION OF NECESSITY DECLARING A PUBLIC NEED FOR AND AUTHORIZING THE ACQUISITION AND IMMEDIATE POSSESSION BY EMINENT DOMAIN PROCEEDINGS OR OTHERWISE OF REAL PROPERTY LOCATED AT 22701 WATKINS STREET IN FURTHERANCE OF THE DOWNTOWN HAYWARD REDEVELOPMENT PLAN

WHEREAS, 22701 Watkins Street is a developed parcel half owned by the Heringer Trust the half by the Isabel C. Nevarez Trust. Prior to consideration of adoption of this resolution, the Redevelopment Agency staff has negotiated with the property owners of the improved property located on Site 4 bearing the address of 22701 Watkins Street, Hayward, California (APN 428-0071-026), regarding the Redevelopment Agency's acquisition of such Property for development of Site 4; and

WHEREAS, the City Council of the City of Hayward has previously considered the environmental impacts of the Redevelopment Plan in the program Environmental Impact Report certified in 1987 for the Downtown Hayward Redevelopment Project area ("Program EIR"); and

WHEREAS, the City Council has also found and determined that the environmental impacts of the Site 4 project are within the scope of the impacts analyzed in the Program EIR: and

WHEREAS, the Redevelopment Agency has complied with the provisions of section 1245.235 of the Code of Civil Procedure of the State of California, including but not limited to a public hearing held on October 23, 2001, on the matters referred to in section 1240.230 of said code, prior notice of which was provided to the Heringer Trust and the Isabel C. Nevarez Trust, the owners of the subject Property, and to the owners' tenants; and

WHEREAS, the Redevelopment Agency is authorized to acquire real property by eminent domain by the by the Downtown Hayward Redevelopment Plan and the Constitution and statutes of the State of California, including, but not limited to, Health and Safety Code sections 33342 and 33367.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Redevelopment Agency of the City of Hayward that it hereby finds, determines, and declares as follows:

1. That the public interest, convenience, and necessity require the acquisition by the Redevelopment Agency of the Property described in Appendix 1, attached to this Resolution, for the development of the Site 4 project in the Downtown Hayward Redevelopment Project area, which project furthers the goals and objectives of the Downtown Hayward Redevelopment Plan;
2. That the Site 4 project is planned and located in the manner which will be most compatible with the greatest public good by eliminating blight and the least private injury by paying fair market value for the property;
3. The property described in this resolution is necessary for the proposed project as 15 of the 18 parcels on this block have been acquired or are under purchase contract pending close of escrow and this parcel is necessary to redevelop the block to eliminate urban blight;
4. That the Redevelopment Agency's staff has made the offer required by section 7267.2 of the Government Code of the State of California to the Heringer Trust and the Isabel C. Nevarez Trust, the property owners, prior to the public hearing held on October 23, 2001, regarding the adoption of this resolution of necessity.

BE IT FURTHER RESOLVED that the Redevelopment Agency carry out said "B" Street Retail Center development and acquire the Property for inclusion in the development site; and

BE IT ALSO RESOLVED that the Agency's General Counsel is authorized and directed to take any and all lawful actions which are convenient or necessary to acquire immediate possession of and title to the Property by eminent domain proceedings or otherwise.

IN COUNCIL, HAYWARD, CALIFORNIA

, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Secretary of the Redevelopment Agency of the  
City of Hayward

APPROVED AS TO FORM:

General Counsel